

TOWN OF BERTHOUD  
BOARD OF TRUSTEES  
REGULAR MEETING  
MAY 9, 2006  
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The Board of Trustees of the Town of Berthoud met for a regular meeting on Tuesday, May 9, 2006 in the Board Room of Town Hall. Mayor Milan Karspeck called the meeting to order at 7:00 p.m.

MEMBERS PRESENT: Mayor Milan Karspeck  
Mayor Pro-Tem Don Ashcraft  
Trustee Glen Buckingham  
Trustee Chase Sommars  
Trustee Louis Gervasi  
Trustee Glen Buckingham

MEMBERS ABSENT: Trustee Michael Patrick

STAFF PRESENT: Town Administrator Jim White  
Town Clerk Mary Cowdin  
Public Works Director Tony Huerta  
Staff Engineer Stephanie Brothers  
Planner Wayne Reed  
Chief Glenn Johnson  
Deputy Clerk Charlene Reed

**PLEDGE OF ALLEGIANCE**

Mayor Karspeck led the pledge of allegiance

**CITIZEN PARTICIPATION**

There were no items presented from the audience.

**REPORTS**

Public Works Director Huerta introduced Staff Engineer Stephanie Brothers. Ms. Brothers was formerly with the City of Greeley and will be an excellent addition to staff. Ms. Brothers thanked the Board for the opportunity to work with the Town.

Public Works Director Huerta announced that Larimer County Road 17 repairs were completed and the road is open to all traffic.

Public Works Director Huerta noted the SolarBees were installed in the Berthoud Reservoir on Monday, May 8, 2006, and we are hoping this will help with our water quality in the future.

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Administrator White reminded everyone that the Berthoud Cleanup Day is scheduled for Saturday, May 13, 2006 from 8:00 a.m. to 1:00 p.m. at Turner Middle School.

Administrator White noted CDOT has scheduled a Parkway Preview Day which will be Saturday, from 9:00 a.m. to 2:00 p.m., to give people the opportunity to walk, jog or bike on the new parkway. It is anticipated that the parkway will open within the next two weeks from the north side, coming from Loveland, down to Highway 56.

Administrator White noted a joint meeting is scheduled with the Board of Trustees and the Planning and Zoning Commission. This will be a training session involving Town Attorney Bruce Fickel and CIRSA Attorney Tami Tanoue, regarding quasi-judicial issues. Administrator White noted the Board of Trustees for the Town of Milliken has asked to participate in this training session. Board members agreed.

Administrator White noted there is a regional transportation meeting scheduled in Windsor from 7:00 a.m. to 11:00 a.m. on Tuesday, June 13, 2006. Mayor Karspeck is Chairman of the Metropolitan Planning Organization and they will be hosting this event.

Administrator White asked for Board support to continue to serve on the CML Executive Board. Board members offered their support and encouraged Administrator White to pursue an additional term on this Board.

Mayor Pro-Tem Ashcraft noted Board members still have time to sign up for the annual CML Conference. He noted this is an excellent opportunity to network and to participate in educational programs related to small communities.

Trustee Sommars noted he attended a training session at CML over the weekend and he thanked Administrator White for attending the session with him.

Administrator White noted this is the last Board meeting for current Town Planner Wayne Reed. He presented Planner Reed with a gift and thanked him for his service. Board members commended Planner Reed for his efforts.

### **CONSENT AGENDA**

The consent agenda consisted of the minutes of the regular meetings held on April 11, 2006 and April 25, 2006 and the bills allowed for April 2006.

**Trustee Buckingham moved to approve the consent agenda as presented. Second by Trustee Gervasi. The motion passed unanimously.**

**SET PUBLIC HEARING: ORDINANCE RE: PEAKVIEW  
MEADOWS VACATION OF EASEMENT**

Planner Reed noted Gabriel Development Inc., Heckel Construction, LLC and GHG Land LLC have filed a request with the Town to vacate certain easements located within Peakview Meadows Subdivision. All affected utility companies have provided signatures of consent for the proposed easement vacation(s).

**Trustee Buckingham moved to set the public hearing for the Peakview Meadows Subdivision vacation of easements for May 23, 2006. Second by Mayor Pro-Tem Ashcraft. The motion passed unanimously.**

**PUBLIC HEARING: REVERE PROPERTY REZONE  
AND OVERALL DEVELOPMENT PLAN**

Mayor Karspeck opened the public hearing.

Planner Reed noted Revere Properties, the applicant, is presenting two (2) requests, a rezoning from T (Transitional) to PUD (Planned Unit Development) and an Overall Development Plan (ODP) encompassing approximately 39 acres for commercial/retail, office, entertainment, and more than six (6) acres of existing right-of-way. Planner Reed distributed a copy of a letter from Scott Sarbaugh sent a letter to the Board providing comments that he would support and asked the Board to support a mixed use project at this location.

Ken Merritt with Landmark Planners and Engineers addressed the Board and did a presentation regarding plans for this project. He noted this property will provide additional retail tax dollars for the Town.

Trustee Gervasi noted setbacks were recommended by the Planning and Zoning Commission and he asked if that created a problem for the developer. Mr. Merritt noted when this plan was initially submitted to the Planning and Zoning Commission, they did not include setbacks or buffers, since that is not typically part of an ODP. It became apparent that they needed to address buffering and building setbacks since this was a major concern at the meeting. At the second meeting with the Planning and Zoning Commission, they proposed setbacks and buffering, which made the project acceptable to the Commission. He noted they are asking the Board to approve the 50' setback in this initial phase. When they return with a site specific plan for approval, the Board can decide if the 50' setback is acceptable.

Trustee Buckingham noted this property is being divided into three categories; entertainment, commercial and retail. He noted that most entertainment is retail in nature, and he asked the breakdown of how much of the square footage will be retail.

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Mr. Merritt noted they originally included the entertainment segment of the plan as part of the retail area. Staff asked them to separate the two to determine what would be the traditional goods and services areas. He noted their intent is that the retail goods and services will be on the ground floor, with a maximum of 368,000 square feet. Non-retail office and commercial areas will be located on the second floor.

Trustee Buckingham noted this would result in 2/3 of the space being used for retail, and he asked if they would be willing to include this breakdown as part of the ODP. Mr. Merritt noted there are not specific minimums stated, but they would not object to including that percentage as a goal in the ODP.

Planner Reed summarized the staff report in the packet. He noted the adjacent corners are already classified as commercial properties. This plan includes a total square footage of 518,000 square feet, with a minimum of 40,000 square feet dedicated to entertainment uses. If the entertainment unit is not included, the total square footage allowed will be reduced.

Trustee Gervasi asked if the developer is aware of and willing to participate in changes planned for Highway 56 and County Road 19. Planner Reed noted the developer and the Town will be working with CDOT on these improvements. Based upon a traffic impact analysis, the developer will be responsible for specific improvements to supplement the typical street section.

Trustee Buckingham asked if this is compatible with the work being done through the CAC. Planner Reed noted there is the potential of the boundaries to be changed based on the studies that are being done. The study will be presented to the Board on May 30, 2006 to allow the Board to see what the result of the Community Workshops that have been done.

Mayor Karspeck opened the floor for public comment.

David Lamb of 1101 NCR 19 addressed the Board noting that he did not feel the Planning and Zoning Commission spent adequate time studying this development. He asked if this developer has done any other developments that would be comparable to Flat Irons or Centerra. He suggested the Board wait to approve this project after the CAC has made a recommendation.

Elizabeth Kearney of 1600 West County Road 10E suggested that the amount of retail being proposed by this developer exceeds the total retail currently located in the Town of Berthoud. She felt this development does not fit with Berthoud. She noted the proposed buffers along the parkway were to have been at least 200 feet, and this developer is asking for a 50 foot buffer for this development.

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Karen Stockley of 316 Bothun Road suggested that this proposed development is comparable to two Super Wal-Mart stores located side by side, and did not feel this is appropriate for Berthoud. She also objected to the possibility of having nightclubs or strip clubs located this close to Berthoud.

John Goreski of 604 E. CR 10 addressed the Board, noting he was disappointed that this development is being considered before the CAC completes their recommendations. He suggested that Scott Sarbaugh would be a good resource when considering commercial development for Berthoud. He suggested the Board needs further education regarding floor area ratios, and felt the proposed ratios are too high. He also expressed concern about allowing elevated development along the edge of town.

Mina Cox of 841 N. CR 19 agreed that commercial should be located near the parkway. She suggested that in her research of retail developments in the area, it is not common to have a .33 floor area ratio. She noted that the majority of the larger retail areas in Longmont have much lower floor area ratios, including the new Super Wal-Mart, Harvest Junction South and Harvest Junction North. She felt this commercial density is out of line for Berthoud. She also suggested that this developer has a project on hold in Longmont while the city of Longmont completes their master plan. She suggested it would be appropriate to delay approval of this project until the CAC completes their work.

Nancy Lamb of 1101 North CR 19 suggested that it would be appropriate to keep the primary retail areas in the core of Berthoud.

Mr. Merritt responded to the comments. He noted this program has been underway in Berthoud since it was initially presented April 2005 and the initial submittal was done in August 2005. There were numerous meetings with the Planning staff and with the Public Works Department, and they have already begun the design of the sewer line to support the project. He noted that in two meetings with the Planning and Zoning Commission, the debate went on for 4-5 hours, and in order to achieve approval, they were required to reduce the density of the project, to eliminate the residential area that was originally proposed, and to include buffers and setbacks.

Mr. Merritt summarized the anticipated traffic impact of this area, noting that a transportation study was done to determine what impact this development will have on current streets and roads. This was used as the basis for the proposed square footage. Mr. Merritt suggested that with additional healthy retail in the area, Downtown Berthoud will prosper and grow and define itself with additional retail in the area.

Mr. Merritt noted that in the BBC report that was done for the Town it was noted that the Town is losing a large percentage of retail sales to other areas. This retail development will begin to capture the retail that is being lost.

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Mr. Merritt noted they are projecting a .25 floor area ratio for the ground floor of this development. He noted they have established a maximum of 70,000 square feet for each building. The minimum for a big box store is 100,000 square foot. As an example, Dick's Sporting Goods in Centera is 45,000 square feet.

Mr. Merritt noted their intention is not to put nightclubs or strip clubs in the entertainment segment of this development.

Trustee Thorstensen suggested that a development of this type would increase retail sales in Berthoud which would also bring more sales to the Downtown area. He pointed out that the land use plan removes the larger buffers for commercial property. He suggested that the economy will dictate what and how fast development will occur in this area. He was excited and feels that this will be good for Berthoud. He noted growth in Berthoud has been stagnant over the past few years, and he was excited to see a project that will give the Town a boost. He also felt this might be a good location for a gas station.

Mayor Pro-Tem Ashcraft noted this project has been under consideration for over a year, and the developer has been very responsive to changes that have been requested by the board, the Planning Commission, and staff. He noted that the Town has had limited economic streams, and without funds, it is difficult to keep the Downtown area alive. He pointed out that there are minimal funds available to fund our Mainstreet program. This is an opportunity to increase our sales tax base, which will allow us to keep our downtown alive. He noted while this project is not perfect, he would like to see this go forward to improve the economy of the Town.

Trustee Buckingham noted on his four years on the Board, there has been a procession of residential developments. In this project, we have the opportunity to get closer to the vision which states that Berthoud will develop an aggressive business development posture. He noted Planner Reed has been goaded to make improvements in Berthoud's retail infrastructure. Berthoud is at 25% of the retail that we need to keep the community healthy. The Town has record low sales receipts and minimal retail. He noted the Core Town should be a stretch of retail that connects the Town from east to west. I-25 will be retail but it is a long way off. He suggested that the Town cannot achieve our retail sales goals without projects of this type. This developer has indicated that he will include a stipulation that 2/3 of this project will be retail. Retail brings a significant amount of funds to the Town. He suggested that we may finally have an opportunity to keep some of the retail sales that are leaving Berthoud to get to Longmont or Loveland.

Trustee Gervasi noted there is nothing in the development that he does not like. He likes the reduction in density to the edges of the development, the buffers, and the road improvements that will be so important to the Town.

Mayor Karspeck noted this development is consistent with land use plan, in an area that has been designated as a commercial/retail node. He noted the Town is having a problem keeping our Library open, and we need funding for our streets and our police department. We have had a hard time funding our Main Street program and we cannot afford to pass up significant retail opportunities. He suggested that this projected is in a unique location between Loveland and Longmont, and there should be a draw for entertainment from both larger cities.

**Mayor Pro-Tem Ashcraft moved to approve Ordinance 1030, rezoning the Revere Property, attaching the conditions recommended by the Planning and Zoning Commission, finding that the request is consistent with the criteria for Rezoning and PUD, and is consistent with the Comprehensive Plan, Land Use Plan and Best Development Practices. Second by Trustee Buckingham.**

**Trustee Gervasi moved to amend the motion to eliminate the requirement by the Planning and Zoning Commission that the buffer be increased to 100 feet, and leaving the buffer at 50 feet. Second by Trustee Buckingham.**

**Trustee Buckingham moved to include a requirement to state that 2/3 of the gross square footage will be retail and 1/3 will be commercial. Second by Trustee Thorstensen.**

Mayor Karspeck asked the applicant if they would be willing to accept the 2/3-1/3 requirement and they agreed to the change.

**The amendments passed unanimously.**

**The motion passed unanimously.**

Board members recessed at 9:25 p.m. and reconvened at 9:40 p.m.

**CONTINUATION OF THE PUBLIC HEARING: KNIEVEL  
ANNEXATION & REZONE, REVIEW & APPROVAL OF  
HERON LAKES AMENDED OVERALL DEVELOPMENT PLAN**

Mayor Karspeck reopened the public hearing for the Knievel Annexation and Rezone, and review and approval of the Heron Lakes Amended Overall Development Plan.

Planner Reed noted provided two additional attachments for the binder including an environmental analysis and a fiscal impact analysis for the Heron Lakes ODP. He introduced Kirby Carroll, the environmental consultant for the Town and Amy Ryel from the Department of Wildlife, noting that both are available to answer questions after the presentation.

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Mr. Carroll thanked the Board for allowing him to come again and discuss their recommendation. He provided numerous references regarding buffers and noted none of these references address specifically a real estate development and a heron rookery. He also provided recommendations regarding osprey buffers. He suggested a heron management plan be developed that included mitigation strategies, and he provided information regarding golf course developments and their effect on wildlife.

Trustee Buckingham noted the studies that have developments involve different type of animals. He asked if any of the studies are specific to a situation such as the Board is considering.

Mr. Carroll noted the Vos studies done in 1984 and 1985 are specific to heron and they recommend specific boundaries. He noted the majority of the studies site human activity as having a negative impact on the rookery.

Mayor Pro-Tem Ashcraft asked if any of the studies address building or components of building. Mr. Carroll noted none of the studies are specific to building. He noted there were no scientific results that indicate that construction would have more of an impact that having humans in the area.

Mayor Pro-Tem Ashcraft suggested it might be possible to reduce activity close to the rookery during mating season.

Planner Reed summarized the fiscal impact analysis that was provided by Tom Pippin at BBC. The first option included the golf course and the second option was without the golf course. The report indicated that both scenarios are fiscally positive for the Town, both at build-out and cumulatively and he provided the potential revenues that were indicated by this analysis.

Trustee Buckingham noted that both of the estimates provided are very conservative. He noted that the Town could charge an entertainment tax on the golf played on the course, and the study does not include a hotel tax. Both of these taxes would significantly boost the income anticipated from the golf option.

Planner Reed noted the retail sales tax estimate is based on our current community and our current capture rate. This could be affected by the residents in this community and by golfers from other areas.

Mayor Pro-Tem Ashcraft asked the estimated build out of this property. Planner Reed noted this project begins with development in the Knieval property and could last as long as ten years. Mayor Pro-Tem Ashcraft noted if there is a projection for retail growth, the retail sales tax projection could increase as the capture rate for the town increases.

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Jon Turner, Hillside Commercial Group addressed the Board. He noted new home residents spend three times as much as existing residents, resulting in a significantly greater impact on revenues to the Town. He presented information regarding Highland Meadows golf course in Windsor that began in 2002. The architect they use is familiar with the Audibon golf course development. He noted they were listed nationally in Golf Digest as being one of the best new courses and they are proud of what they are doing.

Mr. Turner noted their intent is for Berthoud to be a regional destination. This property was previously approved and they feel the prior plan was average and there is no point in having an average golf course in Berthoud. He noted they increased the open space, increased the buffer, moved the golf course away from the rookery, moved the club house, buffered the existing homes with the golf course, which will increase the value of the surrounding homes. The biggest issue was density. They want to build a better course and better clubhouse to attract a better market. Low density golf course developments do not do as well as higher density golf courses.

Board members asked how much better the golf course will be with the higher density they have requested. Mr. Turner responded that the increase in density will allow them to do twice as good on the course and to provide a much better club house. This would allow for increasing funds for landscaping and would give them the ability to do an A++ development. He suggested this course might be the biggest marketing tool for Berthoud for the future. Golfers spend money and we want to encourage them to come to Berthoud. The goal is to provide a club house so nice that it will be an event center. He pointed out that there are not a lot of event centers in this area. There is an approved plan from 2000, and if the Board does not like the new plan, they can go back and do what was approved, but they do not feel that is the best use of the property.

Trustee Buckingham asked what the developer would be willing to do if the rookery suffers during this project. He pointed out there is no way to define disturbance, and he asked what is involved in the management plan that is being proposed.

Mr. Carroll noted the management plan is developed using the existing data on the status of the rookery over the last four or five years and then continue to look at nesting success to determine if the population of the rookery is being affected.

Jim Birdsall distributed a table of contents of a resource management plan created by Audibon International. They are international experts and can be involved in the mitigation plan and can assist in determine what needs to be done if there is an impact.

Trustee Buckingham asked if mitigation requires significant human withdrawals, would the developer be willing to consider increasing buffers if that is necessary to protect the rookery and the birds.

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Mr. Birdsall noted Fossil Creek Reservoir is a good example of the best use of buffering. There were seasonal building techniques used, and creative ways used to increase the buffers.

Mr. Turner noted the rookery would be the last area to be completed. He noted it is not common for residents to move into the area to protect the property they obtain.

Mayor Pro-Tem Ashcraft noted there is a difference in the impact of people moving in and construction. His main concern is the timing of the construction and he suggested he would like to see development planned on a seasonal basis. He also suggested there are simple steps to prevent people from upsetting the rookery.

Mr. Birdsall noted there are specific seasonal mitigation techniques that will help to protect the rookery. He noted the Audubon Society has the expertise to help them plan and complete the development without affecting the rookery.

Trustee Thorstensen noted he is very pleased and excited that Berthoud can have a golf course of this quality.

Mayor Karspeck asked for a comparison between the existing plan and the proposed plan in terms of densities and golf course location. He asked staff to prepare a summary for the Board to identify the changes. Planner Reed agreed to have staff prepare the summary.

Mayor Karspeck opened the floor for public comment.

Karen Stockley of 316 Bothun Road suggested that a golf course can be built anywhere. This property is an environmental gem and there is no money to conserve this. She encouraged the Board to develop this property with open space instead of a golf course. She recommended no trails in the area of the rookery, no access within 100 feet of the rookery year round and a minimum buffer of 300'. She noted that mitigation requires ten acres for every 50 nests and this area has more than 50 nests.

Rick Eason suggested that it is possible to develop this property in a conservative and proper manner without disturbing the birds.

Elizabeth Kearney of 1600 West CR 10E noted she anticipates from the Board's response to this proposal that the golf course is going to be built. She encouraged the Board to remember that the only reason the current density was approved was because the developer was going to build a golf course. There was a density bonus in the initial approval, and now this developer is asking for an additional 124 units. She also encouraged the Board to make the land use designation permanent so that if the golf

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course is not a golf course, it will be open space. She also suggested if there are trails, they be usable.

John Goreski of 604 E CR 10 encouraged the Board to consider and approve the plan with open space. He suggested the open space plan provides a benefit to more people and preserve the wildlife.

Feron Stroh of 506 Weld County Road 48 noted this is an exciting time in Berthoud. The Town has John Turner, who has a proven track record in golf course development, and this is a wonderful opportunity for Berthoud. He encouraged the Board to strive to make Berthoud a hometown where everyone is welcome.

Ken Knievel addressed the Board noting it was difficult to sell their farm and they had a number of different people interested. When they interviewed John Turner, they felt he was the best person to develop the property. He noted Mr. Tuner is a man of his word and does what he says he will do. He noted they have lived next to a development done by Mr. Birdsall and it is a nice place. He suggested this development is an opportunity to make Berthoud better. This would put Berthoud on the map and would make Berthoud a little more than a good place to eat chicken.

Nancy Lamb of 1101 N CR 19 noted that this developer has been very open to working with the neighbors and has worked hard to provide buffering next to existing properties.

Marge Knievel noted they are very excited about this project, which will provide many healthy activities, including walling trails, bird watching, the golf course and a lovely place to take friends for dinner. She noted they are thrilled that the Knievel property will be a part of this development. She felt that in the years to come, the Board will be able to look back and see that this was something special and members will be glad to have been a part of this project.

Mina Cox of 841 N CR 19 supported the work done by the Planning and Zoning Commission on this development. They came up with a very good plan that supports the golf course.

Karen Machini of 1708 West CR 10E agreed that it is nice that developers are willing to listen and work with surrounding areas. She also recognized the Planning and Zoning commission for the job they did.

There were no further comments and the item was returned to the Board.

Mayor Karspeck asked for an analysis prior to the next meeting.

Trustee Gervasi liked the idea of making the property remain open space or a golf course in perpetuity. Planner Reed noted that requirement could be included on the final plat. He noted the ODP is requiring that this be open space, but the formal designations are made at the FDP and the final plat.

Mayor Karspeck noted that even if it is possible to make changes at future stages, when you guarantee densities, those densities will be allowed on the property. Planner Reed noted this developer has a lot of room and can get to the 696 units that are being requested.

Mayor Pro-Tem Ashcraft noted the Board needs to have some flexibility to make changes in the buffer if there is a problem with the rookery. Trustee Buckingham asked if language could be included in the ODP to establish a plan to mitigate the problems if they occur.

Planner Reed noted that this project will be developed over a course of several years and it will be necessary for this developer to work with the Department of Wildlife to relocate the osprey nests. If they cannot move the next, then the buffers will remain. As they develop Heron Lakes, the management plan will be in place to monitor the rookery and determine if it remains viable. If there is a problem then the language would be helpful.

Trustee Buckingham also asked for language that says there will be no development in the area when the heron are breeding.

**Trustee Buckingham moved to continue the Heron Lakes Annexation, Zoning, Overall Development Plan (ODP) to the meeting on May 23, 2006. Second by Trustee Thorstensen. The motion passed unanimously.**

**SET PUBLIC HEARING O'MALLEY GLEN ANNEXATION,  
REZONE & OVERALL DEVELOPMENT PLAN**

Planner Reed noted that Lot Holdings Investments, has submitted an application for rezoning approximately 162.6 acres from T (Transitional) to PUD (Planned Unit Development). This property is located on the southwest corner of Highway 56 and WCR 1.

Mayor Karspeck asked that this project be postponed until the Heron Lakes project is finalized. The Board has three meetings to complete Heron Lakes before this comes before the Board. An annexation, once opened, requires public comment. He noted there are other issues that need to be considered besides developments.

Trustee Buckingham noted there are items that are delayed when the agendas are so full, and he felt it is appropriate to slow down and get some of the other items addressed. He noted that the rate review that was requested earlier this year has still not been done. There are other very important items that need to be done.

Mayor Karspeck suggested that the Board retreat has been delayed due to the significant amount of information that has been included on recent agendas. Administrator White noted that June 12 has been tentatively selected as a date for the retreat. Board members agreed to the June 12, 2006 date for a Board retreat.

Board members agreed to delay O'Malley Glen until some of the other pending topics are addressed.

**SET PUBLIC HEARING – ORDINANCE AMENDING ROAD IMPACT FEES**

Planner Reed noted at the meeting on April 11, 2006, the Board gave staff direction to bring back an ordinance to update the Town's Road Impact Fees. He asked the Board to set a public hearing to consider this information.

**Trustee Thorstensen moved to set a public hearing for an ordinance to amend the Road Impact Fee, for June 13, 2006. Second by Trustee Buckingham. The motion passed unanimously.**

With no further business before the Board, the meeting adjourned at 11:35 p.m.

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Mayor Milan Karspeck

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Deputy Clerk Charlene Reed